IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24/12/2003

CORAM

THE HONOURABLE MR.JUSTICE V.KANAGARAJ

CIVIL REVISION PETITION NO.2788 OF 2000

Dr.R.Hari Ramesh ... Petitioner

-Vs-

1.T.Pramod Wilson
2.T.Praveen Wilson
3.T.Rathnakanth Wilson
4.T.Srikanth Wilson ... Respondents

(Respondents 2 to 4 are represented
by the Power of Attorney T.Pramod
Wilson, the first respondent)

Civil Revision Petition filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 for the relief as stated therein.

For Petitioner : Mr.R.Avudainayagam

For Respondents : Mr.R.Subramanian

:O R D E R
This Civil Revision Petition is directed against the judgment and decree dated 6.1.2000 rendered in R.C.A.No.815 of 1996 by the VIII Judge, Court of Small Causes, Madras, thereby confirming the fair and decretal order dated 31.1.1996 made in R.C.O.P.No.422 of 1994 by the Rent Controller (XIV Judge, Court of Small Causes), Madras.

2. Tracing the history of the above civil revision petition having come to be filed, it comes to be known that the respondentslandlords have filed the R.C.O.P.No.422 of 1994 under Section 4 of the Tamil Nadu Buidings (Lease and Rent Control) Act (hereinafter referred to as the 'Act') before the Rent Controller (XIV Judge, Court of Small Causes), Madras praying to fix the fair rent at Rs.35,506/= per mensem from Rs.3,000/= p.m. for the petition premises which is a nonresidential building situated in Indira Nagar, Chennai and the above R.C.O. P. was allowed thereby fixing the fair rent at Rs.17,834/=. Aggrieved by the said order, the petitioner-tenant preferred an appeal in R.C.A.No.815 of 1996 before the VIII Judge, Court of Small Causes, Madras praying to set aside the fair and decretal order of the Rent Controller in the fixation of the said fair rent and the learned Appellate Authority

dismissed the appeal thereby confirming the order of the Rent Controller. Aggrieved, the petitioner-tenant has come forward to file the above civil revision petition on certain grounds as brought forth in the grounds of revision such as that the judgment of the lower Appellate Court is contrary to law and without jurisdiction; that the finding of the lower Appellate Court erred in confirming the order of the Trial Court fixing fair rent at Rs.17,834/= per mensem from the date of the petition; that the finding of the lower Appellate Court that the petition premises situates in the important locality is erroneous; that the lower Appellate court having held that P.W.2 (Engineer for the respondents) has not followed the correct procedure in arriving at fair rent, ought to have rejected Ex.P1 in toto; that the lower Appellate Court erred in relying on Ex.P1 report of the respondents' engineer as he had not calculated fair rent as per Section 4 of the Act; that the lower Appellate Court ought to have accepted the evidence of R.W.1 and fixed fair rent; that the lower Appellate Court ought to have awarded disallowance of 30% of the cost of the building as provided under Section 4(5)(a) of the Act for the reasons stated by R.W.1 in Ex.R1; that the finding of the lower Appellate Court that Ex.P1 the report of the respondents' Engineer is correct as per law is erroneous; that the lower Appellate Court failed to note even as per Ex.P3 Sale Deed of the next house, the land value as on 15.7.1994 works out to Rs.8,32,877/= per ground and the respondents' are vendors in the said Sale Deed and the value given in the said document is binding on them as it was marked through P.W.1; that the lower Appellate Court failed to note Ex.R4 was a Sale Deed pertaining to a property in Latice Bridge Road and it ought to have fixed the land value of the petition premises at Rs.4 lakhs per ground; that the lower Appellate Court failed to note that Rs.11,458.99 per mensem is the fair rent arrived by R.W.1 the petitioner's engineer in Ex.R1 report; that the finding of the lower Appellate Court that the decision reported in 1996(1) CTC 567 is not applicable to the facts of the case is erroneous; that the finding of the lower Appellate Court that the judgment reported in 1974(1) SCC 424 is applicable to the facts of the case is erroneous. Hence, the present civil revision petition.

3. During arguments, the learned counsel appearing on behalf of the petitioner, besides having dealt with the facts and circumstances of the case as projected by parties, the evidence placed on record, the judgments rendered by both the authorities below, would also cite a decision of this Court delivered in C.SHANMUGHAM vs. N.S.K. CHOKKALINGAM PILLAI reported in 1992-I-L.W.315 wherein while dissecting Section 23 of the Act, adhering to the facts prevalent therein, a learned single Judge of this Court has held:

"The Appellate Authority has not given any reason for arriving at its conclusion but merely stated that the finding of the Rent Controller does not call for interference in the appeal. The Appellate Authority has not independently considered the evidence available on record. The Appellate Authority has not even adverted to either the oral or documentary evidence let in by the parties to the proceedings. Even if the merits of the case warrant the confirmation of the finding of the Rent Controller by the Appellate Authority, it can do so only after specifically referring to the evidence both oral and document available on record. The manner in which the Appellate Authority has disposed of the Rent Control Appeal is not at all satisfactory."

4. On the other hand, on the part of the respondents, the learned counsel appearing for them has only dealt with the subject on facts and figures without pleading any law on the subject and hence this Court is left with no choice but to arrive at its own conclusion in consideration of the facts and circumstances of the case as projected by parties, having regard to the materials placed on record and upon hearing the learned counsel for both in which event, this Court is able to see that the respondents/landlords herein, pertaining to their premises, which has been leased out in favour of the petitioner herein, who is a Doctor and running a Nursing Home in the said premises, have filed the RCOP seeking to fix the fair rent at Rs.35,506/= per month from Rs.3,000/= as per Section 4 of the Act and the Rent Controller, having assessed the facts and circumstances of the case and framing its own point for proper consideration of the question of fair rent for the subject matter and further permitting the parties to record evidence during which on the part of the respondents/landlords, as petitioners therein, they have not only examined the first petitioner/ landlord as P.W.1 but also yet another Joseph, an Engineer, as P.W.2 for oral evidence and for documentary evidence, they have marked three documents as Exs.A.1 to A.3, Ex.A.1 dated 7.8.1995 being the report submitted by the Engineer, Ex.A.2 being the sketch and Ex.A.3 dated 15.7 .1994 being the sale deed.

5. On the part of the respondent/tenant therein, he has also examined one witness as R.W.1, an Engineer, without even examining himself, besides marking four documents as Exs.B.1 to B.4, Ex.B.1 dated 26.10 .1995 being a report by the Engineer, Exs.B2 and B3 being the sketches and Ex.B4 dated 17.11.1993 being the copy of the sale deed.

6. The Rent Controller, having taken stock of these materials for proper consideration in the manner advocated by law and having his own healthy discussions on the subject and further taking into consideration the value of the land and the building and the estimate given by the experts on both sides and estimating the value of the site at Rs.12 lakhs and having calculated the other aspects in the manner required under law, would ultimately arrive at the valid conclusion to fix the fair rent at Rs.17,834/= as on the date of the RCOP thus passing the fair and decretal order in the fixation of the fair rent connecting to the said petition.

7. Aggrieved, the tenant has preferred an appeal and the appellate authority too, having assessed the facts and figures and the circumstances therein and having framed its own point for consideration ' whether the Rent Controller is justified in its fair and decretal order in the matter of fixation of fair rent to the petition building' and having had its own discussions, has arrived at the conclusion that the Rent Controller has rightly and properly arrived at the conclusion to fix the monthly fair rent at Rs.17,834/= and there is no need on his part to cause interference, thus confirming the fair and decretal order passed by the Rent Controller and it is against this current findings, the petitioner/tenant has come forward to file the above revision petition.

8. A careful perusal of the entire records placed at the table, this Court is able to see that the RCOP has been filed in the year 1994

and to the date of filing, the Rent Controller has decided the matter with the fixation of the fair rent at Rs.17,834/= and the same has been confirmed by the appellate authority, thus both passing the orders in a concurrent manner. It is not only the decisions arrived at by these initial and appellate forums but also the manner in which the decisions have been arrived at, taking into consideration of those materials placed on record and in full appreciation of the same particularly in the appreciation of the evidence in the context of the law prevailing on the subject including the procedural paraphernalia adopted by these authorities, since being to the norms and requirements of law and falling in line with the propositions held by the upper forums so far, the interference of this Court sought to be made into such well considered and merited fair and decretal order passed by the Rent Controller and the judgment and decree passed by the Rent Control Appellate Authority is neither necessary nor required in the circumstances of the case.

9. The judgment cited on the part of the petitioner is in a generalised form rendered in adherence to the facts and circumstances encircling the subject dealt with by the learned single Judge in the year 1 991 and the facts prevalent on the subject in hand since being different particularly in the passing of the fair and decretal order of the Rent Controller and the judgment and decree by the Rent Control Appellate Authority, the norms laid therein become inapplicable to the facts of the case.

In result,
(i)the above civil revision petition does not merit acceptance but only becomes liable to be dismissed and is dismissed accordingly.
(ii)The judgment and decree dated 6.1.2000 rendered in R.C.A.No.815 of 1996 by the Rent Control Appellate Authority and the VIII Judge, Court of Small Causes, Madras thereby confirming the fair and decretal order dated 31.1.1996 made in RCOP.No.422 of 1994 by the Rent Controller and the XIV Judge, Court of Small Causes, Madras is confirmed.

However, in the circumstances of the case, there shall be no order as to costs.

Index: Yes

Internet: Yes

kb/Rao

To
The Registrar,
Small Causes Court,
Chennai.

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